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April 25, 2023

BY ECF AND ELECTRONIC MAIL

MEMO ENDORSED

The Honorable Katherine Polk Failla
Thurgood Marshall United States Courthouse
40 Foley Square, Courtroom 618
New York, New York 10007

Walmart Inc., et al. v. Capital One, N.A., 23-cv-02942 (KPF)

Dear Judge Failla:

We represent Defendant Capital One, National Association (“Capital One”) in the above-captioned matter. Pursuant to Your Honor’s Individual Rule 9(B)(i), Capital One respectfully submits this letter regarding the sealed treatment of Capital One’s response to Plaintiffs’ (collectively, “Walmart”) pre-motion conference letter (“Response Letter”), which is being filed under seal and on the public docket in redacted form today.

The contract at issue contains a confidentiality provision that prohibits the parties from disclosing the terms of the contract, which are discussed in the Response Letter. Consistent with Walmart’s letter (ECF No. 32), the parties are considering which provisions of the contract can be disclosed on the public docket. Capital One therefore respectfully requests the Court’s permission to provisionally redact portions of the Response Letter, and to file the unredacted Response Letter under seal.

Respectfully submitted,

/s/ Mark P. Goodman

Mark P. Goodman

Application GRANTED. The Clerk of Court is directed to maintain docket entry 40 under seal, viewable only to the parties and the Court.

The Clerk of Court is further directed to terminate the motion at docket entry 38.

SO ORDERED.

Dated: April 26, 2023
New York, New York



HON. KATHERINE POLK FAILLA
UNITED STATES DISTRICT JUDGE